BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2020–195-E

IN RE: Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Joint Petition for Approval of Accounting Order to Defer Incremental Expenses as a Result of COVID19	)	REPORT OF THE OFFICE OF REGULATORY STAFF IN RESPONSE TO ORDER NO. 2021-232

I. PROCEDURAL HISTORY

On August 14, 2020, Duke Energy Carolina, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively "Companies" or "Duke Energy"), filed a Joint Petition ("Joint Petition") with the Public Service Commission of South Carolina ("Commission") seeking an accounting order to allow the Companies to establish deferral accounts for "incremental expenses" related to the COVID-19 State of Emergency ("State of Emergency").

On March 14, 2020, Governor Henry McMaster requested that all regulated utilities and cooperatives serving the State of South Carolina not suspend or disconnect essential services to customer for nonpayment during the current State of Emergency.

On March 16, 2020, Office of Regulatory Staff ("ORS") requested the Commission grant waivers of certain Electric, Natural Gas, Telecommunications, Water and Wastewater regulations, and relief for any utility desiring to waive the portion of utility tariffs that provide for collection of reconnection fees.

On March 18, 2020, the Commission issued Order No. 2020-228 that granted waivers related to late payment charges and procedures for termination and directed all utilities to suspend disconnection of service during the State of Emergency.

On May 13, 2020, Governor McMaster directed ORS to work with the Commission and utility services providers to take steps to allow for a return to normal business operations while continuing to provide flexibility and assistance to customers. That same day, the ORS sent a letter to the Commission to inform it of Governor McMaster's request for a return to normal business operations.[1]

On May 14, 2020, the Commission issued Order No. 2020-374 to vacate the waivers of late payment fees and procedures for termination, require utilities to arrange payment plans that will avoid or minimize penalties and service interruptions and refer customers to local organizations for financial assistance.

On October 16, 2020, ORS filed a reply to the Companies' Joint Petition. The South Carolina Department of Consumer Affairs ("Consumer Affairs") also filed a response to the Companies' Joint Petition in a filing on October 6, 2020.

On October 19, 2020, the Companies filed a reply to the ORS and Consumer Affairs' responsive filings to the Joint Petition. On October 21, 2020, the Commission issued a directive to allow ORS additional time to conduct discovery relating to the Joint Petition. On January 27, 2021, the Commission granted ORS an additional extension to conduct discovery, to review updated information concerning Duke Energy's request for an accounting order, as well as to research the recently enacted federal laws addressing COVID-19 aid and recovery before submittal of the report. In response to a request by ORS, the Commission issued Order No. 2021-232 on March

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[1] ORS Letter dated May 13, 2020 Docket No. 2020-106-A.
https://dms.psc.sc.gov/Attachments/Matter/60e70581-8d58-4e8d-9020-4630446faa84

31, 2021 further extending the date for the ORS to file the report with the Commission to April 16, 2021. ORS provides this Report to the Commission in response to Order No. 2021-232.

II. OVERVIEW OF THE JOINT PETITION

Duke Energy requests that the Commission approve an accounting order authorizing DEC and DEP to defer incremental costs resulting from the COVID-19 Pandemic and declared State of Emergency, to be considered for future recovery in the Companies' next rate case proceedings. The Incremental COVID-19 Pandemic costs ("Pandemic Costs") are described by the Companies in the Joint Petition as costs "stemming from actions to provide customers' relief" and "to ensure safety of employees and to facilitate ongoing remote work."[2] Specifically, the Companies request deferral of the following Pandemic Costs: (1) Customer Fees Waived; (2) Bad Debt/Charge-offs; (3) Employee Stipends; (4) Safety Related Costs; (5) Costs for Remote Work; and (6) Other Costs such as employee overtime due to COVID-19 safety measures.

In addition, the Companies requested Commission approval to: (1) defer and add carrying costs to the Pandemic Costs at the Companies' weighted cost of capital approved in the most recent rate cases from March 1, 2020 until such time as the Commission addresses the final disposition of the requested deferrals in the Companies next rate case; (2) track and adjust the regulatory asset from March 2020 until the Commission addresses the deferral for ultimate disposition in the Companies' next rate cases; and (3) take notice of the filings and evidence in the Companies' pending two general rate cases in North Carolina Docket Nos. E-7, Sub 1214 and E-2, Sub 1219.

[2] Joint Petition, page 8.

The Companies projected in the Joint Petition the Total Incremental COVID-19 Costs for calendar year 2020 for DEC of $8.4 million and for DEP of $3.4 million. The Companies filed the Quarterly Report through February 28, 2021 in Docket No. 2020-106-A reporting the following updated Total Incremental COVID-19 Costs and Savings. [3]

Summary of Incremental COVID-19 Costs and Savings

($ in Thousands)	**DEC SC**		**DEP SC**	
Incremental COVID-19 Costs	**November 30, 2020**	**February 28, 2021**	**November 30, 2020**	**February 28, 2021**
Customer Fees Waived	$ 5,093	$ 5,102	$ 2,184	$ 2,186
Bad Debt/Charge-offs (incremental to amount set in rates)	2,739	3,940	1,266	1,739
Employee Stipends	392	392	105	105
Safety Related - PPE, testing, signage, extra cleaning, etc.	1,305	1,563	254	318
Costs for remote work - IT, MS Teams, bandwidth, servers	287	305	84	91
Other (primarily incremental labor)	312	511	85	137
Total Incremental COVID-19 Costs	**$ 10,128**	**$ 11,813**	**$ 3,978**	**$ 4,576**
Less Estimated Incremental COVID-19 Savings				
Total Estimated COVID-19 Savings	**$ (2,232)**	**$ (2,724)**	**$ (671)**	**$ (796)**
Net total	**$ 7,896**	**$ 9,089**	**$ 3,307**	**$ 3,780**

[3] Duke Energy Quarterly COVID-19 Report Docket No. 2020-106-A
https://dms.psc.sc.gov/Attachments/Matter/037e99d7-e420-4839-92f5-9ca6cabf9753

III. SUMMARY OF THE ORS RECOMMENDATIONS

ORS objects to Duke Energy's Joint Petition. The COVID-19 pandemic has had a devastating impact on the lives of South Carolina residents and Duke Energy customers continue to experience economic hardship. The shareholders of Duke Energy received increased dividends in 2020,[4] the employees of Duke Energy received stock payments and incentive compensation and Duke Energy continued to expend funds for economic development purposes.[5] There is sound public policy and a reasonable expectation that regulated utilities share in the adverse impacts of COVID-19.

ORS recommends that the Commission deny the Joint Petition because the amounts the Companies request permission to defer are not material or extraordinary. In 2019, the last year for which final information is available, DEC had South Carolina revenues of approximately $2,100,000,000 and DEP of approximately $740,000,000.[6] After removing out the amounts related to Waived Fees—which represent lost revenues not incurred costs and which the Companies voluntarily committed to waive—Pandemic Costs are equal to approximately 0.001% of DEC's 2019 revenues, and 0.002% of DEP's 2019 revenues. The Companies have not shown these costs are material or extraordinary; therefore, the Companies should not be permitted deferral treatment.[7]

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[4] https://www.duke-energy.com/our-company/investors/stock/dividends-duke-energy

[5] Duke Energy Supplemental Response to ORS First AIR 1-21

[6] Supplemental Pages to DEC FERC Form 1, p. 114; Supplemental Pages to DEP FERC Form 1, p. 114.

[7] See ORS's comments in Docket No. 2019-233-A addressing the requirement that deferred costs be material or extraordinary and other common standards.
https://dms.psc.sc.gov/Attachments/Matter/54c03fa1-76ba-43d0-833c-2346068e204b

Moreover, South Carolina customers should not be required to fund increased Pandemic Costs arising from a longer electric service disconnection moratorium in North Carolina[8] and the Companies' voluntary waiver of Customer Fees and suspension of procedures for electric service termination. South Carolina returned to normal business operations as quickly as possible and the suspension of disconnection of utility service ended after approximately sixty (60) days. In North Carolina, utilities were not allowed to implement procedures for termination until September 1, 2020. Duke Energy began procedures for termination of electric service in South Carolina on October 12, 2020. Duke Energy did not reinstate the process to charge Customer Fees until December 1, 2020.

Most customers have made a good faith effort to pay delinquent electric bills. The Quarterly Report filed by Duke Energy in Docket No. 2020-106-A on March 31, 2021 indicates that customer arrearages that are 90+ days past due are declining. The decline can be attributed to a variety of factors including customized deferred payment plans, federal utility assistance reaching customers in need, federal stimulus payments to families and customers return to the workplace. Some funds have not yet been disbursed. House Bill 3770, if passed, would utilize emergency rental and utility assistance funds totaling $271 million. [9]

The Companies waived Customer Fees including Late Payment, NSF/Returned Check, Reconnection and Walk-in Payment Fees. The Companies should not be allowed to recover Customer Fees waived plus carrying costs. Customer Fees waived by the Companies are not "incurred costs," but a proxy for revenue voluntarily relinquished by the Companies.

[8] NCUC Docket Nos. M-100, Sub 158 Order extending the ban on disconnections until September 1, 2020.
[9] https://www.thestate.com/news/state/south-carolina/article250447431.html

The information presented by the Companies does not show that the Pandemic Costs are extraordinary. The risk of increased operating costs is borne solely by shareholders until such costs rise to an extraordinary level. While the COVID-19 Pandemic is unprecedent, Duke Energy has not shown that the costs it incurred in response are of such a magnitude as to be proper for deferral treatment. Nor has Duke Energy provided any fact-specific justification for the level of carrying costs, if any, appropriate to the Pandemic Costs or any particular category of Pandemic Costs.

The Companies' Joint Petition for Approval of an Accounting Order filed in North Carolina is pending in Docket Nos. E-2, Sub 1258 and E-7, Sub 1241 and the North Carolina Utility Commission ("NCUC") has not issued a ruling.[10] The North Carolina Public Staff deemed the request for deferral of costs "inappropriate."[11]

ORS recommends denial of the Joint Petition. However, if the Commission determines the Companies request for an accounting order is just, reasonable and in the public interest, ORS recommends the following conditions be incorporated in the Order:

a. The Pandemic Costs should be limited only to those incremental costs incurred by the Companies during the suspension of disconnection ordered by the Commission from March 13, 2020 through May 14, 2020.
b. The Pandemic Costs should not include incremental expenses incurred by the Companies due to disconnection moratoria or other special provisions enacted by other state commissions or executive orders.
c. All COVID-19 savings (discussed in more detail), Federal Assistance or Federal Tax Credits should be used to offset the Pandemic Costs.
d. The Pandemic Costs should be limited to actual incremental costs in the following categories: Safety Related, Costs for Remote Work and Other Incremental Labor Costs.
e. The deferred balance should not accrue carrying costs or earn a return.

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[10] https://starw1.ncuc.net/NCUC/page/docket-docs/PSC/DocketDetails.aspx?DocketId=b15a42da-feec-4068-8ddf-cd21dbdef30c

[11] Comments of the NC Public Staff p.24 https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=3b9e8429-edaa-4b3a-b12b-d3f3665a2304

f. Estimated costs and contingency amounts should not be allowed to be included in the deferral balance.

IV. ORS REVIEW AND INVESTIGATION

A. Information Reviewed by ORS

ORS issued First and Continuing Request for Production of Books, Records and Other Information ("First AIR") to the Companies on September 28, 2020. The Companies provided a response to the First AIR on October 12, 2020. The Companies provided ORS supplemental responses on February 15, 2021 and March 18, 2021. ORS issued its Second and Continuing Request for Production of Books, Records and Other Information ("Second AIR") on October 28, 2020. The Companies provided a response to the Second AIR on November 6, 2020 and a supplemental response on February 15, 2021.

The Companies filed Quarterly COVID-19 Revenue Impact, Costs and Savings Reports pursuant to Commission Order No. 2020-372 on June 30, 2020, September 30, 2020, December 30, 2020, and March 31, 2021.

The Companies requested the Commission take notice of the filings and evidence in the Companies' pending general rate cases in Docket Nos. E-7, Sub 1214 and E-2, Sub 1219. These North Carolina rate case dockets contain voluminous records and evidence about DEC and DEP's Rate Cases. ORS reviewed the documents related to the issues raised in the Joint Petition and the recent NCUC Order issued on March 31, 2021 in Docket No. E-7, Sub 1214.

B. ORS Analysis of the Pandemic Costs – Customer Fees Waived

The Commission granted both the Companies and customers the flexibility to extend deferred payment arrangements early in the Pandemic to reduce economic hardship experienced by customers and keep essential electric service connected during the COVID-19 Pandemic and in light of the unpredictable impact the Pandemic could have on the Companies financially.

The Commission limited the suspension of disconnections due to nonpayment to approximately sixty (60) days and authorized the Companies to waive certain Commission regulations if the utility so desired. The Commission did not mandate waivers of Customer Fees. The Commission encouraged and facilitated a timely return to normal business practices to include procedures for termination and collection of fees. The action by the Commission allowed the Companies to enforce payment of obligations and collect the various Customer Fees identified in the Joint Petition from the specific customers that incurred the Customer Fees. The short suspension timeframe served to decrease the future negative financial impacts that accumulated unpaid utility bills could have on the Companies and its customers. Therefore, it is not in the public interest to allow the Companies to recover from the general body of customers the Customer Fees that were waived including carrying costs.

A general principle of regulatory accounting directly applies in this matter in that Customer Fees that are waived by a utility should be booked as lost *revenue*, not as an incurred *cost*. An incurred cost is defined in Financial Account Standards Board Accounting Standards Codification (" FASB ASC") 980-10-20 as "a cost arising from cash paid out or obligation to pay for an acquired asset or service[.]"[12] Given the importance of waived Customer Fees Waived to the Companies' requested deferred Pandemic Cost (they are the largest single category of Pandemic Costs requested by both DEP and DEC) this distinction has particular significance here. While it is true

[12] https://asc.fasb.org/glossarysection&trid=2156588

that the regulator can use discretion to create regulatory assets, it is only appropriate to create a regulatory asset for an incurred *cost*, and an incurred *cost* that would otherwise be expensed should only be capitalized as a regulatory asset if (1) it is probable that future revenues in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes; and (2) based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs.[13] FASC ASC 980-605-25 provides specific accounting guidance related to the proper accounting for lost revenue to be billed in future period in response to past activities or completed events.[14]

The Commission did not order a moratorium on the Companies' right or ability to charge Customer Fees. The Companies voluntarily suspended the collection of Customer Fees and now request permission to charge customers for having done so and add carrying cost to the amount uncharged and uncollected. The Commission did grant a temporary waiver for S.C. Code Ann. Regs. 103-339.3; however, the Commission did not require the electric utility to waive late fees. As stated by the Companies on page 6 of their Petition, it was "*the Companies' decision* to waive all late-payment fees, return check charges, reconnection fees, and residential customers' electronic payment fees not already included in rates."

It is also clear from a review of other state jurisdictions, several Commissions have imposed longer disconnection of service moratoria and prohibitions on utility assessments of

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[13] FASB ASC 980-340-25 https://asc.fasb.org/section&trid=2156667
[14] FASB ASC 980-605-25 https://asc.fasb.org/section&trid=2156855

certain Customer Fees and, as a result, approved specific regulatory accounting treatment for lost revenues attributed to Customer Fees. However, ORS identified several jurisdictions, including Wisconsin[15] and Kentucky,[16] which have expressly rejected utilities request(s) for recovery of "lost revenue." Late fees are not cost-based, and their primary purpose is to encourage prompt payment and late fees do not to serve as an additional source of revenue for the Companies.

The Companies assert that Customer Fees Waived are "[d]esigned to recover costs incurred by the Companies…such as additional financing needs to cover a lag in receiving funds, bank fees associated with returned checks, vendor fees to process walk-in payments and labor to support customer reconnections."[17] The Companies further assert that "these are fees lawfully set and approved by the Commission. In essence, the Companies are requesting to defer the costs that these fees were designed to cover." The Companies, in effect have requested to be allowed to use lost revenue from Customer Fees Waived as a "proxy" to actual operational expenses incurred to administer late fees, returned checks, walk-in payments and customer reconnections. In response to ORS First AIR 1-1, the Companies did not provide an account of actual operational expenses incurred to facilitate Customer Fees. Instead, the Companies provided ORS with a list by month of expense categories and total amounts of Late Payment, NSF/Returned Check and Walk-in Payment. The use of the Customer Fees set by Commission regulation or the Companies tariff to estimate the actual operational expenses is inappropriate and should be rejected.

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[15] https://apps.psc.wi.gov/pages/viewdoc.htm?docid=389500
[16] https://psc.ky.gov/pscscf/2020%20Cases/2020-00257//20201230_PSC_ORDER.pdf
[17] Duke Energy Response to ORS First AIR 1-15.

The Companies **waived** Customer Fees including Late Payment, NSF/Returned Check, Walk-in Payment Fees and the Companies should not be allowed to recover Customer Fees **waived** plus carrying costs. Black's Law Dictionary defines "waive" as "the voluntary relinquishment or abandonment (express or implied) of a legal right or advantage." Black's Law Dictionary also says that the party alleged to have waived a right must have both knowledge of the existing right and the intention of foregoing it. "The Doctrine of Waiver seems to be based on the premise that a person is his best judge and he has liberty to waive the enjoyment of such rights as are conferred on him by the state." Duke Energy asserts in its Joint Petition that it is entitled to Customer Fees Waived that Duke Energy management claimed it had waived on behalf of its customers. ORS finds no indication in the documents filed by the Companies in Docket No. 2020-106-A that the Companies asserted the expectation to be made whole for the Customer Fees Waived plus carrying costs.

As of February 28, 2021, the Companies quantified Customer Fees Waived as $5,102,000 for DEC and $2,186,000 for DEP (estimated amounts are reflected as SC retail allocation). During the suspension of disconnections for non-payment pursuant to Commission Order No. 2020-228 (March 2020 through May 2020), ORS calculated (based on the Companies estimates) Customer Fees Waived amounts for DEC of $1,414,143 and for DEP of $612,808.

ORS objects to the inclusion of Customer Fees Waived; however, if the Commission approves Duke Energy's Joint Petition, the Customer Fees Waived should be limited to actual operational expenses incurred by the Companies to <u>administer</u> late fees, returned checks, and walk-in payments during the time period the Commission required suspension of disconnections for nonpayment which was March 18, 2020 through May 14, 2020.

C. ORS Analysis of the Pandemic Costs – Bad Debt/Charge Offs

It is the position of ORS that recovery of uncollectible revenue and bad debt are issues to be reviewed by the Commission in a general rate case. The Companies estimated bad debt expense in an alternative manner using a sensitivity analysis. The Companies state they will "continue to refine the methodology to estimate bad debts and allowance for uncollectible receivable as the company increases contact with the customer and learns of their intent to pay."[18] The Companies do not know the period of time over which they will receive past-due payments from customers. In the March 31, 2021, Quarterly COVID-19 Report, the Companies estimated Bad Debt/Charge Offs as $3,940,000 for DEC and $1,739,000. Finally, Duke Energy has not attempted to explain what portion of bad debt expense is attributable to the decision to suspend service terminations after the end of the Commission's 60-day suspension.

The Companies Bad Debt/Charge Offs continue to fluctuate as customers recover from economic hardship and federal assistance is starting to find its way to customers. Estimated costs should not be allowed to be included in the deferral balance. ORS recommends Bad Debt expense and Charge Offs be closely reviewed in the context of the Companies next rate cases to determine if a normalization adjustment is warranted to reflect the impacts of COVID-19.

D. ORS Analysis of the Pandemic Costs – Employee Stipends

The Companies' request for regulatory accounting treatment includes a one-time cash payment of $1,500 to eligible Duke Energy employees who may need additional resources to adapt to the pandemic. The Companies estimated that as of February 28, 2021, the amount of Employee

[18] Duke Energy Response to ORS Second AIR 2-02.

Stipends for DEC was $392,000 and DEP $105,000. The Companies stated the Employee Stipend was intended to help employees with unplanned expenses related to dependent care disruption and transitions to remote working. Eligible Duke Energy employees were call-center employees and other non-exempt employees who were paid an hourly rate of $30 per hour or less.[19] Therefore, under the limited criteria identified by Duke Energy, eligible employees may earn approximately $62,400 in annual salary.

While ORS commends the Companies' efforts to assist Duke Energy employees who may have been disproportionately exposed to Pandemic-related hardship, the Employee Stipends provided by the Companies is an expression of goodwill on behalf of the Companies for certain employees. The Companies did not require Duke Energy employees eligible for the Employee Stipend to provide any documentation of economic hardship and the Employee Stipend was automatically paid to any Duke Energy employee meeting the hourly rate of $30 per hour or less. Duke Energy also did not explain how these costs materially impacted the Companies' overall financial situation so as to be appropriate for deferral treatment. Therefore, ORS recommends the Employee Stipends be excluded from deferred regulatory treatment and not recovered from Duke Energy's customers.

E. ORS Analysis of the Pandemic Savings

The Companies request deferred accounting treatment for Pandemic Costs but fail to offset the Pandemic Costs with operation and maintenance savings ("Pandemic Savings") experienced by the Companies during the same time period. The Companies state in response to ORS discovery

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[19] Duke Energy Supplemental Response to ORS First AIR 1-7a.

(ORS First AIR 1-9) that cost savings are primarily due to reduced employee expenses due to travel restrictions and print and postage savings due to not sending disconnect notices. As of February 28, 2021, DEC estimated cost savings of $2,724,000 and DEP estimated cost savings of $796,000.

The Companies also recorded cost savings through the following cost efficiency measures:

a. Revised scope and timing of generation outages due to lower anticipated generation output;
b. Headcount management – including reductions in overtime, freezing external hiring, and reducing contingent workers;
c. Lowering anticipated employee and executive short-term incentives for the year; and
d. Lower than planned interest expense due to favorable timing of capital market transactions.[20]

The Companies stated that through December 31, 2020, the "cost efficiency measures" were estimated to generate approximately $9M in cost savings for DEC and $10M in cost savings for DEP (allocated to SC retail). The Companies claim the "cost efficiency measures" that resulted in significant savings are "helping the Companies overcome significant reductions in customer load resulting from the pandemic and mild weather." The Companies claim to the savings generated by "cost efficiency measures" in order to offset the impacts of mild weather result in an inappropriate shift of the risk of revenue reductions due to weather to the customer. The Companies should not be allowed to use Pandemic Savings to offset the risk of weather-related revenue fluctuations to benefit the shareholders.

The Companies did not offset Pandemic Costs with the significant cost savings from "cost efficiency measures." The Commission has been presented with an incomplete and arbitrary

[20] Duke Energy Response to ORS First AIR 1-10.

picture of the cost savings. Customers are paying for many services through current rates for which the Companies may be experiencing cost savings from building operations expenses, fleet vehicle expenses, office supply expenses, aviation expenses, Board meetings expenses, and training/conference expenses. In addition, the Companies should not be allowed to determine the additional costs or revenue losses to be offset by Pandemic Savings. This also highlights the risk to customers that can be created by requesting deferral accounting, which is an exception to the prohibitions against single-issue and retroactive ratemaking.

The Companies have received Federal Assistance and Tax Credits to mitigate the impacts of COVID-19 on their operations. Specifically, the Federal Assistance and Tax Credits includes delayed tax payments, employee retention credits, other accelerated tax credit refunds and access to the Emergency Coronavirus Relief Act for emergency utility assistance.

The Companies estimated the following expected amounts of tax benefits under the Federal CARES Act as of December 31, 2020:[21]

[redacted]

[redacted]

[21]Duke Energy Supplemental Response to ORS First AIR 1-08

[redacted]

The Companies have not included the projected benefits of the Federal Assistance and Tax Credits in the requested deferral calculation and thus, the Companies present the Commission with a one-dimensional analysis. ORS recommends the Companies be required to offset and/or flow through any Federal Assistance or Tax Credit to customers.

Through the various Federal Assistance and Tax Credits, companies may delay payment of taxes without incurring additional interest charges. However, the Companies would not, in turn, extend similar interest-free treatment to customers given the Companies' request to add carrying costs to the deferral.

F. ORS Analysis of the Companies Request to Add Carrying Costs to the Deferral

The Companies' Joint Petition requests the deferral include carrying costs equal to the weighted average cost of capital on the unrecovered balance. Pandemic Costs are identified as operation and maintenance expenses by the Companies; except for Customer Fees Waived which are lost revenue. Prudently incurred operational and maintenance expenses do not earn a debt and equity return during a general rate case. Therefore, the Companies have no entitlement to carrying costs or a return.

For the twelve-months ending December 31, 2020, the Companies reported they spent (total system NC and SC) approximately $2 million in economic development, $1 billion in payment of stock dividends to shareholders and $98.6 million in payments and accruals for the Duke Energy employee Short-Term Incentive Program.[22]

The Companies indicated that Duke Energy's strong credit quality allowed it to satisfy near-term borrowing needs by drawing on existing revolving credit facilities and an additional short-term bank loan. The Companies reported no difficulty accessing the capital markets in 2020. The financial impacts of COVID-19 have not resulted in a degradation of the Companies' ability to attract capital on reasonable terms. The Companies state that S&P downgraded Duke Energy Corporation and all subsidiaries on January 26, 2021 due to the announced coal ash settlement between the Companies and intervenors in North Carolina.[23] On March 29, 2021, Moody's downgraded Duke Energy Corp. and DEC for the same reasons as noted by S&P in January 2021. Neither S&P nor Moody's credit downgrade in 2021 listed COVID-19 cost recovery as the reason for the credit downgrade.

G. ORS Analysis of Deferral Time Period and Allocation of Pandemic Costs

South Carolina customers should not be required to fund increased Pandemic Costs arising from a longer electric service disconnection moratorium in North Carolina and the Companies voluntary waiver of Customer Fees and suspension of procedures for electric service termination after the Commission vacated the waivers authorized by Order No. 2020-374. South Carolina returned to normal business operations as quickly as possible as requested by the Governor. Further the Commission ordered suspension of disconnection of utility service ended after approximately sixty (60) days. Therefore, the Companies calculation of total Pandemic Costs to be allocated to

[22] Duke Energy Supplemental Response to ORS First AIR 1-21.
[23] Duke Energy Supplemental Response to ORS First AIR 1-24.

South Carolina customers should be limited to <u>only</u> those Pandemic Costs (Safety Related, Costs for Remote Work and Other Incremental Labor) incurred by the Companies during the time period of March 18, 2020, through May 14, 2020. ORS recommends the Pandemic Costs be offset by the savings realized by the Companies during that same time period attributed to their modified operations during the COVID-19 pandemic.

In North Carolina, utilities were prohibited from implementing procedures for termination until September 1, 2020. However, Duke Energy did not begin procedures for termination of electric service for nonpayment in South Carolina until October 12, 2020. Duke Energy delayed service disconnections for nonpayment in South Carolina approximately five (5) months after the Commission authorized a return to normal business practice in Order No. 2020-374. In addition, Duke Energy did not reinstate charging Customer Fees in South Carolina until December 1, 2020 – nearly seven (7) months after the Commission authorized a return to normal business practice in Order No. 2020-374. Customers in South Carolina should not be forced to pay for the allocation of Customer Fees Waived (plus carrying costs) by Duke Energy to comply with NCUC Orders or North Carolina Executive Orders.

V. CONCLUSION

The Companies have not demonstrated or supported a need for deferred regulatory accounting treatment for Pandemic Costs. ORS recommends the Joint Petition be denied. Notwithstanding the ORS recommendation to deny the request for an accounting order, if the Commission determines the Companies request for an accounting order is just, reasonable and in the public interest, ORS recommends the following conditions be incorporated into Order:

a. The Pandemic Costs should be limited only to those incremental costs incurred by the Companies during the suspension of disconnection for nonpayment ordered by the Commission from March 13, 2020 through May 14, 2020.

b. The Pandemic Costs should not include incremental expenses incurred by the Companies due to disconnection moratoria or other special provisions enacted by other state commissions or executive orders.
c. All Pandemic Savings, Federal Assistance and Federal Tax Credits should be used to offset the Pandemic Costs.
d. The Pandemic Costs should be limited to actual incremental costs incurred by the Companies in the following categories: Safety Related, Costs for Remote Work and Other Incremental Labor Costs.
e. The deferred balance should not accrue carrying costs or earn a return.
f. Estimated costs and contingency amounts should not be allowed to be included in the deferral balance.

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